

DEPARTMENT OF WATER RESOURCES

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November 8, 2000

To: Distribution List

Subject: Oroville Facilities Relicensing
Plenary Group "Kick-Off" Meeting

Thank you for your timely response indicating an interest in attending the "kick-off" meeting of the Plenary Group for relicensing of the Department of Water Resources' Oroville Facilities (currently licensed as Federal Energy Regulatory Commission Project No. 2100). The meeting is confirmed for November 16, 2000 at the Veteran's Memorial Hall in Oroville. As stated in our notice of October 16, 2000, a proposed agenda and draft meeting material are enclosed for discussion during the meeting. The draft meeting material consists of: (1) Proposed Roles and Process; and (2) Proposed Structure and Purpose. We are also posting this information on our Oroville relicensing website, <http://OrovilleRelicensing.water.ca.gov>. A working lunch will be provided during the meeting. If you have any special dietary considerations, please contact Melanie Baillie at (916) 653-9647.

We appreciate your cooperation in making our proposed use of the collaborative process a productive endeavor. FERC personnel will be attending the meeting to explain their role during the process and the Department will also update attendees on our formal request to FERC for approval to use the collaborative relicensing process.

If you have any questions regarding this meeting, please feel free to give me a call at (916) 653-5913 or contact Rick Ramirez at (916) 653-1095.

Sincerely,

A handwritten signature in cursive script that reads "Viju Patel".

Viju Patel, Executive Manager
Power Systems

Enclosures

Distribution List: (See attached list.)

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**OROVILLE FACILITIES RELICENSING
PLENARY MEETING
DRAFT AGENDA**

Veteran's Memorial Hall
2374 Montgomery Street
Oroville, CA
November 16, 2000

Desired Outcomes

- *Update on relicensing activities*
- *Introduction of Alternative Licensing Procedure framework and kick-off for Plenary Group and Work Groups*
- *Introduction and general acceptance of Participants' Roles and Ground Rules*
- *Understanding and concurrence of milestones and schedule*
- *Understanding of participant perspectives*
- *Next steps for Plenary Group and first Work Group meetings*

- 1. Welcome, Introductions and Meeting Objectives**
- 2. Overview of Relicensing Activities**
 - Communications Protocol
 - Informal Meetings – summaries in package
 - Formal Request to FERC for Approval of Alternative Licensing Procedure
- 3. Alternative Licensing Procedure (ALP)**
 - Framework – Plenary Group, Work Groups, Task Forces
 - Structure and Purpose – balanced representation approach
 - Roles and Process – participants and expectations
 - FERC's Role
- 4. Ground Rules for ALP**
 - Discussion of Issues
 - Review and Discussion of Preliminary Ground Rules
- 5. Milestone Schedule**
 - Initial Information Package
 - Scoping Process
 - Study Plans
 - Field Studies
 - Environmental Assessment and License Application
- 6. Participant Perspectives**
 - Public Meeting Comments
 - Participant Perspectives
- 7. Action Items, Future Meeting Schedule and Next Steps**
 - Work Groups
 - Plenary Group
- 8. Meeting Evaluation and Ideas for Improvement**

OROVILLE FACILITIES RELICENSING COLLABORATIVE PROCESS

Proposed Roles and Process

The Oroville Facilities Relicensing Collaborative Process is a public process that is open to anyone who is interested in the relicensing of the Oroville Facilities subject to the following ground rules.

Roles of Involved Parties

Interested Parties. Interested Parties are those people or entities that have an interest in the outcome of the relicensing of the Oroville Facilities. To the extent desired by an individual Interested Party, the Interested Parties will remain informed about and provide input regarding relicensing activities.

Participants. Participants are a subset of the Interested Parties who have chosen to be actively involved in the relicensing process, both with respect to the development of credible scientific information relevant to the decisions that need to be made in the relicensing process and in the development of a settlement agreement. This will occur through participation at Plenary Group, Work Group, and Task Force meetings, working to collaboratively develop solutions, by providing written comments, or otherwise providing input.

Licensee. The Licensee is the State of California Department of Water Resources (DWR). The Licensee shall act as a full Participant in the collaborative process and will take the lead in developing necessary information and preparing formal documents. The Licensee will propose agendas (for review and input by the other Participants) for all meetings.

The Licensee is committed to supporting the collaborative process in seeking lasting agreements to major issues related to the relicensing of the Oroville Facilities that are acceptable to as many of the participants as possible. However, the Licensee is required to file an application to relicense the Oroville Facilities with the FERC no later than January 31, 2005, regardless of the status of the collaborative process at that time.

Consulting Team. The Consulting Team includes scientific and recreational consultants, engineers, regulatory specialists, and public involvement and meeting facilitation consultants retained by the Licensee. The Consulting Team supports DWR with specialized expertise. Members of the Consulting Team will not have the authority to negotiate on behalf of or bind the Licensee or any other Participant.

Facilitator. The facilitator's role is to help the Participants reach lasting agreement (between as many of the Participants as possible on as many issues as possible). The facilitator will help the Participants identify goals, identify issues, develop and maintain critical paths, accomplish creative problem solving, and reach resolution of issues.

Statutory Authorities. Certain parties to the collaborative process have statutory authority defined in federal and state law. While agencies with statutory authority may choose to exercise

that authority through a settlement agreement, such a decision is based upon adequate information in the record, and a determination by the agency that it can meet its statutory objectives through settlement. Statutory authority cannot be constrained or obviated by consensus or agreement. A list of certain Participants with statutory authority include:

- Departments of Interior and Commerce: Statutory authority for the Departments of Interior and Commerce is contained in the Federal Power Act (Sections 18, 10(j) and 10(a)), the Fish and Wildlife Coordination Act, the Endangered Species Act, and the National Environmental Policy Act. The US Fish and Wildlife Service will represent the Department of Interior in the process with regard to Interior's exercise of its responsibilities for fishways, fish and wildlife resources, and related matters. Similarly, the National Marine Fisheries Service will represent the Department of Commerce with regard to fishways, fishery resources, and related matters.
- Federal Energy Regulatory Commission (FERC): Statutory authority for the FERC is contained in the Federal Power Act and NEPA.
- United States Forest Service (USFS): Statutory authority for USFS is contained in the Fish and Wildlife Coordination Act.
- State of California Water Resources Control Board (SWRCB): Statutory authority for SWRCB is contained in Section 401 of the Clean Water Act.
- State of California Department of Fish and Game (DFG): Statutory authority for DFG is contained in the Fish and Wildlife Coordination Act.
- State of California Department of Parks and Recreation (DPR), State Historic Preservation Office (SHPO): Statutory authority for SHPO contained in Section 106 of the National Historic Preservation Act.
- Indian Tribes: Statutory authority for Indian Tribes is contained within the Federal Power Act and Section 106 of the National Historic Preservation Act.

Composition of Plenary Group and Work Groups

Each Participant will identify a primary representative(s) for the Plenary Group and for each Work Group that they want to participate in. Rosters will be maintained of each Work Group. DWR will actively seek participation from other groups to ensure broad and balanced representation in both the Plenary Group and the Work Groups.

Responsibilities of Participants

Attendance. Participants will make every effort to attend meetings and inform the facilitator in advance of any absence at a meeting or any change in representation. If possible, each

representative will identify a back-up person, prepared to represent their organization when needed.

Agendas. Participants will assist the Licensee in developing meeting agendas and adhering to them.

Preparation. Participants will come prepared for meetings having reviewed all previously distributed material relating to an agenda item. After the initial "getting up to speed" of all of the Participants, if a participant is new to the group, it is their responsibility to be briefed by their organization or to ask for a separate briefing by the Licensee or facilitator outside of the group meetings.

If a Participant would like the Work Group to consider a specific proposal, it is the responsibility of that Participant to prepare and provide whatever written material would be useful to the Work Group.

Participation. Each Participant is expected to be a willing contributor at meetings, to communicate actively (listen, don't interrupt, communicate early, no side conversations, be clear and concise, suggest solutions), to share all necessary factual information, and to strive for consensus on a timely basis. Each Participant is expected to be open minded, to listen to others, to respect others' points of view, to be direct and considerate, show respect for the other Participants, and be willing to explain their concerns to others.

Authority. If a Participant does not have authority to bind its organization, the Participant will keep its organization briefed on an on-going basis about the activities of the group, the issues being addressed, and possible solutions to those issues. The Participant will incorporate the input they have received from their internal discussions into their participation at the group level. When the Work Group identifies a viable solution and tries to determine whether there is consensus, the Participant will state whether (1) they can live with the solution, (2) they think their organization can live with the solution, and (3) they need further approval from their organization. When discussing the proposed solution internally (assuming the Participant has stated they can live with the solution), the Participant will advocate the solution as a viable approach for their organization.

Assignments. Ideally, all members of a Work Group will volunteer to work on outside-of-the-meeting assignments (following up on specific discussions, preparing proposals, laying groundwork for future discussion). In some instances, it may be appropriate for the Licensee to provide draft materials for purposes of the Work Group's consideration. Participants should complete assignments on schedule.

Meeting Guidelines

Response Time. Participants will have sufficient time to review material and proposed solutions so that they can meaningfully participate in the collaborative process. Specifically, Participants

will have sufficient time for internal review of major policy matters before making decisions on such matters.

Brainstorming. Participants will be encouraged to “brainstorm” a variety of solutions to specific issues. When a Participant identifies possible solutions as part of this process it is on behalf of the Work Group, not their individual organizations, and a Participant will not be held to any brainstorming ideas until such time as they have indicated a willingness to live with a proposed solution.

Decision Making. DWR is committed to working toward the resolution of issues and the development of durable settlement agreements through the collaborative process using a consensus-based approach – where all Participants (including the Licensee) can live with the decision being made. Participants may be asked to “live with” something that is not their preferred ideal, but recognize that it is a fair decision, considering the many participating interests. (Consensus does not mean that Participants get everything that they want or agree to all components of a solution). Ultimately decisions regarding the FERC application contents remain with DWR as the licensee of the Oroville Facilities.

Dispute Resolution. On an as-needed basis, the facilitator will use a variety of dispute resolution techniques (including mediation) to work through difficult issues. Participants will use an escalation process whereby they first strive to resolve conflicts that arise within the group where the conflict originates. If the parties fail to reach resolution at the initial level, by mutual agreement the parties can elevate the dispute to the next level. For example, a conflict originating within a Work Group that is not resolved at the Work Group level may be elevated to the Plenary Group for resolution. If the Plenary Group is unable to achieve resolution, DWR will seek resolution with the appropriate regulatory agency(ies), excluding FERC, and report back to the Plenary Group. As a last resort, if DWR in concert with the appropriate regulatory agency(ies) cannot resolve the issue, then the Plenary Group may file a request with FERC to resolve the disagreement according to the provisions of 18 CFR 4.34(i)(6)(vii).

Identifying Collaborative Process Breakdown. Process breakdown is not deadlock on a single issue or resource area, but breakdown of the whole collaborative process. Indications that the process is experiencing difficulties may include waning attendance at meetings or notification from key stakeholders that they intend to cease participation in the process. At such time, DWR and the Participants will review and consider the entire process and attempt to re-establish and maximize balanced participation to get the collaborative process back on track.

Caucuses. Time will be allowed at each meeting for caucuses, as necessary.

Tracking Issue and Resolutions. DWR will track the progress of working groups by maintaining an annotated list of issues that identifies specific issues, status of the issues, and resolutions. While a Participant will not be precluded from reopening a resolved issue, the Participants will make every effort to move forward once decisions have been made and to only request that the group revisit decisions in limited situations.

Meetings. Meetings will be scheduled in accordance with the Communications Protocol and open to the public.

Meeting notices, agendas, and minutes will be handled in accordance with the Communications Protocol. In addition, the Licensee will provide semi-annual written status reports to FERC in accordance with the Communications Protocol.

Information. Participants will have access to all documents developed during relicensing activities. The Licensee and all Participants will distribute necessary information on a timely, equal and open basis.

Some information will need to be subject to a confidentiality agreement. It is the responsibility of a Participant providing confidential information to ask the group to treat it confidentially. All Participants will honor confidentiality agreements.

To the extent that non-confidential data or information is draft, preliminary or otherwise qualified, if Participants use such data/information outside of the context of the Oroville Facilities relicensing, they will appropriately qualify the data/information.

Media Relations. All meetings are open to the public so media representatives can be expected to attend and will have access to all documents developed during relicensing activities. In addition, the Licensee intends to prepare quarterly newsletters to update interested members of the public and the media on the process. Participants understand that 'debating the process in the media' can undermine the collaborative process. Using the collaborative process, Participants will determine appropriate stages at which to formally update the media on the progress of relicensing activities and will fashion such updates as a group. Participants agree to represent the collaborative process and settlement agreements to the media in a balanced manner and to notify the Plenary Group of any individual Participant's media contact. At such time when the Participants are ready to develop settlement agreements, the open meeting format becomes negotiable.

OROVILLE FACILITIES RELICENSING COLLABORATIVE PROCESS

Proposed Structure and Purpose

Introduction

The California Department of Water Resources (DWR) filed a formal request with the Federal Energy Regulatory Commission (FERC) on _____ seeking approval for an Alternative Licensing Procedure (ALP) for the relicensing of the Oroville Facilities. DWR intends to use a collaborative process, open to anyone interested in the relicensing of the facilities. To that end, DWR is initiating a continuing series of meetings with state and federal agencies, Indian Tribes, local government officials and interested members of the public that will actively participate as a collaborative team. DWR envisions that through facilitated discussions, brainstorming, and presentation of individual participants' goals, the collaborative group will develop universal goals and objectives that 'everyone can live with'. These goals will then guide the collaborative team through the relicensing process to settlement agreements and ultimately, a new license for the Oroville Facilities. The following proposed three-tiered framework sets forth a starting point for discussion and ultimate agreement on a collaborative process strategy.

Three-Tier Structure

Plenary Group

Keeper of the "Collaborative Dream"
 Provides Global Perspective (Identifies Potential Conflicts and Balances Resource Plans)
 Shepherds Collaborative/Settlement Process from Beginning to End
 Stays Informed of Work Group Progress
 Reviews Work Group Recommendations for Potential Conflicts with Other Work Groups or
 Timely Pursues Further Evaluation
 Meets Regularly

Work Groups

Addresses Resource Issues
 Considers Existing and New Information
 Keeps Plenary Group Informed
 Develops Solutions: First Phase Studies, Second Stage Protection, Mitigation, & Enhancement measures (PM& Es)
 Makes Recommendations to Plenary Group
 Meets Regularly (More Frequently than Plenary Group)

Task Forces

Subsets of Work Groups that may include members from more than one Work Group
 Convenes to perform studies to address specific issues that may involve more than one resource
 Established and meets as needed

Purpose and Mission of Groups

Plenary Group. The Plenary Group is the keeper of the “collaborative dream” – it is responsible for shepherding the collaborative process from the beginning to end. Since the FERC regulatory process requires DWR to submit a license application no later than January 31, 2005 regardless of the status of the collaborative process, it is incumbent on the Plenary Group to maintain a schedule consistent with that requirement. To do this, the Plenary Group will establish group goals and objectives, develop an approach to achieve those goals and objectives, and maintain a close linkage to the Work Groups to make sure that FERC/DWR deadlines are satisfied.

The Plenary Group will maintain a global perspective and work to resolve issues that may arise within and between Work Groups. The Plenary Group will review the progress of all Work Groups to consider how their proposals/recommendations respecting studies and PM&Es interrelate and how they may interact (positively or negatively) with other issues. The Plenary Group will identify conflicting proposals while there is still time to reconcile differences and adjust the proposals and provide all Participants the opportunity to discuss the development of overall mix of studies, alternatives, and, eventually, PM&E proposals.

The Plenary Group will rely heavily on input from Work Groups when performing its responsibilities, in particular with respect to Work Group recommendations as follows:

Work Group Recommendations. When a Work Group has reached consensus on an action item(s), the Work Group will provide a written recommendation to the Plenary Group regarding the action item(s).

Presumption of Acceptability. The Work Group’s recommendations will be presumed to be acceptable unless a Plenary Group representative informs the Plenary Group of specific concerns regarding the recommendation and asks the Work Group to further evaluate the recommendation.

Evaluation of Recommendation. If possible, the recommendation will be discussed at the next Plenary Group Meeting or, if that is not practicable (or necessary), the discussion will take place at a time agreed to by the Plenary Group, but prior to the recommendation being implemented. Members of the relevant Work Group will be invited to attend and participate at the Plenary Group meeting where the recommendation is discussed.

Time-Sensitive Recommendations. If the recommendation involves time-sensitive action items, when the written recommendation is sent to the Plenary Group it will clearly identify a deadline (no shorter than one week from the receipt of the recommendation) for questions or objections by Plenary Group representatives. If a Plenary Group representative asks for a further evaluation of a time-sensitive recommendation, it will take place promptly by telephone conference call or a special meeting, as appropriate.

A Work Group representative will attend each Plenary Group meeting and brief the Plenary Group on the Work Group’s progress and answer any clarifying questions regarding

recommendations. The Work Group representative will be responsible for briefing their subgroup on what took place at the Plenary Group meeting.

The Plenary Group will meet regularly. It is anticipated that during the initial organizational period, the Plenary Group may need to meet monthly however, it is expected that once established, the meetings will become less frequent.

Work Groups. Work Groups will be established as necessary to deal with resource issues. It is anticipated that there will be at least six Work Groups: (1) Cultural Resources, (2) Recreation and Socioeconomics, (3) Land Use, Land Management and Aesthetics, (4) Aquatics (including Water Quality), (5) Terrestrial Resources, and (6) Engineering and Operations. (The Aquatics and Terrestrial Resources Work Groups will be initiated as a single Environmental Work Group.) More Work Groups might be formed or, for specific issues or studies, members of individual Work Groups may be combined into a Task Force. The Work Groups will define resource goals and objectives, develop an approach to achieve those goals and objectives, identify issues, develop study plans, establish and maintain critical paths, and resolve issues. At the beginning of the process the Work Groups will focus on designing studies that will result in the gathering of credible scientific information relevant to the decisions that need to be made in the relicensing process; later the Work Groups will focus on developing mutually agreeable PM&Es.

The Work Groups will examine the information necessary to resolve specific resource issues and use available and new information from the relicensing studies to propose solutions to problems or develop PM&E proposals to address issues. The Work Groups will focus on a variety of potential solutions to study issues and viable PM&E measures, and will consider the expected effectiveness of these solutions.

Work Group meetings will be held as necessary, but they are likely to occur more frequently than Plenary Group meetings.

Task Forces. Task Forces will be convened at the request of Work Groups in coordination with the Plenary Group as appropriate to assist in performing studies requiring specialized expertise specific to individual issues or that require input on more than one resource area. For example, a Task Force may be organized to address an issue that relates to both aquatic resources and recreational interests. Task Forces will report results of activities directly to the Work Groups. It is anticipated that Task Forces will meet as needed to gather information and resolve questions specific to individual issues that may arise within Work Groups.